

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Samuel Lamont Barnette

Plaintiff,

vs.

Barry Faile, Jason Broughton, and William J.
Nowicki, Esq.,

Defendants.

Civil Action No. 0:19-cv-1416-CMC

ORDER

This matter is before the court on Plaintiff's Complaint pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), D.S.C., the matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings. On May 16, 2019, the Magistrate Judge entered two orders, citing deficiencies in Plaintiff's Complaint and allowing an opportunity for amendment and directing Plaintiff to provide proper service documents. ECF Nos. 6, 7. Plaintiff was specifically put on notice that failure to cure the deficiencies would render the claims subject to dismissal without leave for further amendment. ECF No. 6 at 8-9. Plaintiff did not respond. On June 12, 2019, the Magistrate Judge issued a Report recommending this matter be summarily dismissed with prejudice and without issuance and service of process. ECF No. 11. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff did not file objections and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo*

determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After considering the record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the Report’s recommendation the case be dismissed. Plaintiff has been given an opportunity to amend his Complaint after the Magistrate Judge identified the deficiencies therein, but has failed to do so or to respond to the Report. Accordingly, the court adopts the Report by reference in this Order. This matter is hereby dismissed with prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
July 8, 2019